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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

BRENT LOREN ADAMS,

Defendant and Appellant.

D052886

(Super. Ct. No. SCD210295)

APPEAL from a judgment of the Superior Court of San Diego County, Robert Ahern, Judge. Affirmed.

Brent Loren Adams pleaded guilty to possession of a cocaine base for sale (Health & Saf. Code, § 11351.5); transportation of a controlled substance (*id.*, §11352, subd. (a)); and admitted to having seven prison priors (Pen. Code,¹ §§ 667.5, subd. (b), 668). There were no deals offered or made in exchange for the guilty plea.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

In the sentencing hearing, the trial court struck six of Adams's seven prison priors, imposed a five-year prison sentence (consisting of the four-year mid term on count 1 for possession of a cocaine base for sale, plus one year consecutive for the seventh prison prior), less 241 days of presentencing custody credits, and ordered that Adams pay \$2,000 in restitution fines pursuant to section 1202.4, subdivision (b). The trial court also ordered, but stayed, an additional \$2,000 in restitution fines pursuant to section 1202.45, pending successful completion of parole. Sentencing on count 2 (transportation of a controlled substance) was stayed pursuant to section 654.

On May 21, 2008, Adams filed a notice of appeal and sought a certificate of probable cause. The trial court denied the request for the certificate of probable cause.

FACTS²

On November 9, 2007, at approximately 8:00 a.m., uniformed Police Officer Tyler Cockroll observed Adams sitting on the curb at 1500 "K" Street in San Diego. Officer Cockroll approached Adams, inquired if he was on parole or probation and, after learning that Adams was on parole, asked if he could search him. Adams responded, "Go ahead." Officer Cockroll found a candy bag in Adams's left sock. Inside the candy bag were two small baggies and inside of each of those baggies were six, individually wrapped pieces of an off-white waxy substance. Cockroll found no Brillo pad, steel wool, pushrod, cocaine pipe or other item that would indicate the waxy substance, later tested and determined to be 3.9 grams of cocaine base, was for personal use. Adams was arrested

² The parties' stipulated to the preliminary hearing transcript as the factual basis for the plea. The facts here are taken from that transcript.

for being in possession of 3.9 grams of cocaine base. San Diego Police Department Narcotics Detective Conrad De Castro, testifying as an expert, opined that the 3.9 grams of cocaine base found on Adams was possessed for sale.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable, issues: (1) whether Adams was advised of his rights and the consequences of his plea before entering a guilty plea; (2) whether the trial court abused its discretion in sentencing Adams on count 1 of the information [possession of a cocaine base for sale, Health and Safety Code section 11351.5]; and (3) whether Adams may challenge the validity of his plea, given that Adams failed to obtain a certificate of probable cause (see § 1237.5).³

We granted Adams permission to file a brief on his own behalf. He has not responded.⁴

³ Section 1237.5 reads: "No appeal shall be taken by the defendant from a judgment of conviction upon a plea of guilty . . . , except where both of the following are met: [¶] (a) The defendant has filed with the trial court a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings; [¶] (b) The trial court has executed and filed a certificate of probable cause for such appeal with the clerk of the court."

⁴ On November 21, 2008, Adams filed a petition for habeas corpus, which this court denied on December 2, 2008.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has represented Adams on this appeal.

DISPOSITION

The judgment is affirmed.

IRION, J.

WE CONCUR:

HUFFMAN, Acting P. J.

McINTYRE, J.